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August 23, 2005

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Ex Parte Presentation

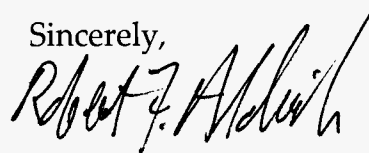
Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch:

On August 23, 2005, Albert H. Kramer, Allan C. Hubbard, and Robert F. Aldrich of Dickstein Shapiro Morin & Oshinsky, on behalf of the American Public Communications Council ("APCC"), met with Narda Jones, Chief of the Telecommunications Access Policy Division, Cathy Carpino, Deputy Chief of the Division, Greg Guice, and Carol Pomponio of the Wireline Competition Bureau. The matters discussed are detailed in the enclosed documents, copies of which were handed out at the meeting.

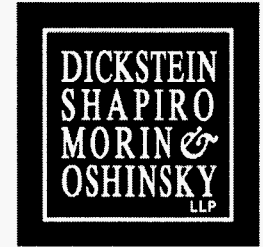
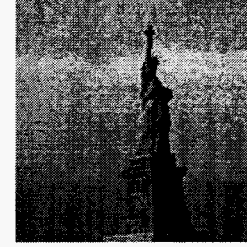
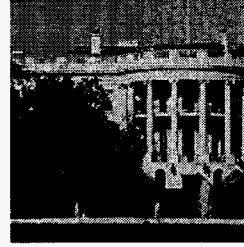
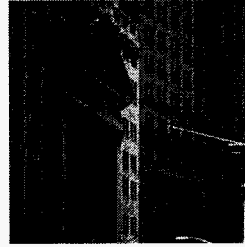
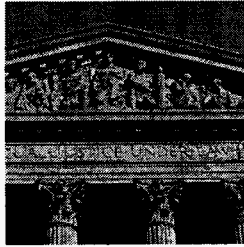
Sincerely,



Robert F. Aldrich

Enclosures

cc: Cathy Carpino
Narda Jones
Greg Guice
Carol Pomponio



Legal Innovators

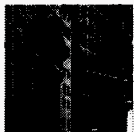
Payphone Service Providers' Subsidy of LEC Centrex Customers' USF Fees; Waiver of *De Minimis* Status

American Public Communications Council
August 23, 2005

Albert H. Kramer
Robert F. Aldrich
Allan C. Hubbard

PSPs' Subsidy of LEC Centrex Customers' USF Fees

- Commission's 3/14/03 order in Docket 96-45 ("*Waiver Order*") allowed LECs to recover Universal Service Fund ("USF") contribution costs from their Centrex customers using equivalent line ratios established under rules governing the PICC.
- Applying Centrex equivalent line ratios of as much as 9:1 results in LECs recovering from Centrex customers only a fraction of the USF fees that LECs incur in USF contribution costs for serving those customers.
- *Waiver Order* allows LECs to recover resulting shortfall in fees assessed Centrex customers by assessing other multi-line business line customers USF fees at a higher percentage factor of the subscriber line charge ("SLC") than the USF contribution factor.



PSPs' Subsidy of LEC Centrex Customers' USF Fees (continued)

- Payphone Service Providers (“PSPs”) are classified as multi-line business line customers for purposes of the SLC.
- The result of the *Waiver Order* is that PSPs pay higher USF fees to LECs so that LECs' Centrex customers can pay lower USF fees.
 - Verizon's April 2003 \$.95 monthly USF charge per line for its Pennsylvania multi-line business line customers, absent the Centrex subsidy allowed by the *Waiver Order*, would have been \$.58 per line per month.
 - SBC's April 2003 \$1.10 monthly USF charge per line for its Indiana multi-line business line customers, absent the Centrex subsidy, would have been \$.53 per line per month.



PSPs' Subsidy of LEC Centrex Customers' USF Fees (continued)

- On April 30, 2003, APCC sought reconsideration of the *Waiver Order* on following grounds:
 - In the Commission's 2002 New Services Test Order, the Commission found that LEC charges that result in PSP subsidy of other services are unlawful. All elements of PSP rates must be cost-based.
 - The *Waiver Order* is inconsistent with the Commission's proposed finding in the December 2002 USF NPRM that PSPs, under a connections-based methodology, should be assessed contributions at the lower rate that would apply to single business line/residential customers rather than the higher rate that would apply to multi-line business line customers.
 - The *Waiver Order*, by increasing PSP costs, is inconsistent with Section 276's underlying purpose of promoting the widespread deployment of payphones.



PSPs' Subsidy of LEC Centrex Customers' USF Fees (continued)

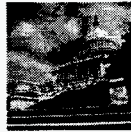
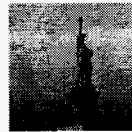
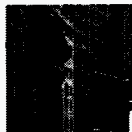
- Commission's June 25, 2003 *PSP SLC/PICC Order* exempted PSPs from the PICC on grounds that the PICC was not cost-based as required by the New Services Test Order and involved a PSP subsidy of other services.
- For the foregoing reasons, the Commission immediately should grant reconsideration of the Waiver Order and direct LECs to assess PSPs USF fees that do not exceed the SLC times the applicable USF contribution factor.

* * *



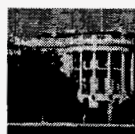
PSPs Qualifying for the USF *De Minimis* Exemption Should Be Able to Make Direct USF Payments if They Choose

- Under the *de minimis* exemption, payers whose annual USF contribution would be less than \$10,000 “will not be *required* to submit a contribution” 47 CFR § 54.708 (emphasis added).
 - The rule does not *preclude* service providers qualifying for the *de minimis* exemption from making direct USF contributions if they choose.
 - Currently, however, USAC does not accept direct USF contributions from service providers qualifying for the *de minimis* exemption.
- USAC’s refusal to accept direct contributions from *de minimis* payers is unfair to independent PSPs.



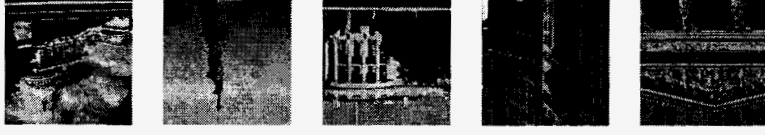
PSPs Qualifying for the USF *De Minimis* Exemption Should Be Able to Make Direct USF Payments if They Choose (continued)

- Most PSPs qualify for the *de minimis* exemption.
- Under the FCC rules, direct USF payers may not be assessed “pass-through” charges by LECs and other carriers. Only *de minimis* payers are subject to USF pass-through charges.
- LEC pass-through charges alone greatly exceed the direct contributions most PSPs would pay.
 - Most PSPs have very little interstate/international end user revenue.
 - As of February 2005, LEC USF pass-through charges ranged from \$.50 to \$1.98. Examples: SBC (CA) \$.65; Verizon (NY) \$1.05; Verizon (FL) \$1.50.



PSPs Qualifying for the USF *De Minimis* Exemption Should Be Able to Make Direct USF Payments if They Choose (continued)

- Prohibiting small PSPs from making direct USF payments puts them at an unfair competitive disadvantage vis-à-vis large PSPs, including LECs – whose payphone divisions aren't treated as *de minimis*.
- Allowing *de minimis* PSPs to make direct contributions would have a very low impact on overall USF revenue.
- The Commission should direct USAC to accept direct USF contributions from service providers who choose to make them, even if a service provider qualifies for the *de minimis* exemption.



State	LEC	RBOC	Indep. LEC	SLC	USF Charge	Date
AL	BELLSOUTH	X		6.76	0.89	1/19/05
AR	SBC	X		5.21	0.68	1/21/05
AR	CENTURYTEL		X	9.20	0.98	1/22/05
AZ	QWEST	X		6.30	0.70	2/1/05
CA	SBC	X		4.42	0.65	1/25/05
CA	FRONTIER		X	9.20	1.02	1/10/05
CA	SUREWEST TELEPHONE		X	9.20	1.98	2/2/05
CO	QWEST	X		7.48	0.82	1/28/05
DC	VERIZON	X		3.84	0.72	1/22/05
DE	VERIZON	X		8.98	1.50	1/19/05
FL	BELLSOUTH	X		6.76	0.89	1/19/05
FL	VERIZON (GTE)	X		8.98	1.50	1/28/05
GA	BELLSOUTH	X		6.76	0.89	1/19/05
GA	PINELAND TEL COOP		X	9.20	0.99	2/1/05
HI	VERIZON (GTE)			8.34	1.35	1/19/05
IA	QWEST	X		4.78	1.00	2/1/05
IL	SBC	X		4.49	0.64	1/25/05
IL	VERIZON (GTE)			9.20	1.18	1/25/05
IN	VERIZON (GTE)			9.20	1.32	1/10/05
KS	Navigator		X (CLEC)	5.28	0.56	1/15/04
KS	SBC	X		5.21	0.68	1/19/05
KS	SPRINT		X	9.20	1.10	2/2/05
KY	BELLSOUTH	X		6.76	0.89	1/19/05
LA	BELLSOUTH	X		6.76	0.89	1/19/05
MA	VERIZON	X		6.38	1.00	1/14/05
MD	VERIZON	X		5.67	1.03	1/23/05
ME	VERIZON	X		6.38	0.83	10/1/04
MI	SBC	X		5.34	0.86	1/22/05
MN	QWEST	X		4.39	0.71	1/22/05
MN	HICKORYTECH		X	9.11	0.97	2/1/05
MO	SBC	X		5.21	0.67	1/21/05
MO	Navigator		X (CLEC)	5.28	0.74	1/15/04
MS	BELLSOUTH	X		6.76	0.89	1/19/05
MT	QWEST	X		9.20	1.00	1/22/05
NC	BELLSOUTH	X		6.76	0.74	1/31/05
NC	VERIZON (GTE)	X		9.20	1.26	1/31/05
ND	QWEST	X		8.19	0.96	1/22/05
NE	QWEST	X		4.89	0.50	12/19/04
NH	Verizon	X		6.38	0.83	10/1/04
NJ	VERIZON	X		6.26	0.99	1/8/05
NM	QWEST	X		9.20	1.02	1/16/05
NV	SBC	X		5.77	1.20	1/26/05
NY	FRONTIER		X	9.20	0.98	2/1/05
NY	VERIZON	X		6.38	1.05	1/28/05
OH	SBC	X		5.38	0.85	1/25/05
OH	VERIZON (GTE)	X		8.19	1.17	1/25/05
OK	SBC	X		5.61	0.69	1/19/05
OR	QWEST	X		6.95	0.79	2/2/05
PA	FRONTIER		X	9.20	0.98	1/20/05
PA	NORTH PITTSBURG TEL CO.		X	9.20	0.98	1/16/05
PA	VERIZON (GTE)	X		9.20	1.26	1/31/05
PA	VERIZON	X		6.05	1.35	1/1/05
SC	SPRINT		X	5.59	0.84	1/26/05
SC	BELLSOUTH	X		6.76	0.89	1/19/05

State	LEC	RBOC	Indep. LEC	SLC	USF Charge	Date
SC	PALMETTO		X	9.20	0.98	2/1/05
SC	HARGRAY TELEPHONE CO.		X	9.20	0.98	2/25/05
SC	TDS TELECOM		X	9.20	1.06	2/7/05
SC	VERIZON (GTE)	X		9.20	1.23	1/10/05
SC	ROCK HILL TEL CO./COMPORIUM CO		X	9.20	1.24	1/16/05
TN	FRONTIER		X	6.50	0.74	1/28/05
TN	BELLSOUTH	X		6.76	0.89	1/19/05
TN	TDS TELECOM		X	9.20	1.01	1/25/05
TX	SBC	X		5.21	0.55	1/27/05
TX	VALOR TELECOMMUNICATIONS		X	7.20	0.84	1/25/05
TX	VERIZON (GTE)	X		9.20	1.55	1/28/05
UT	QWEST	X		6.33	0.78	1/22/05
VA	VERIZON	X		6.25	1.09	1/22/05
VT	VERIZON	X		6.38	0.83	10/1/04
WA	QWEST	X		5.94	0.73	1/29/05
WA	SPRINT		X	5.94	0.73	1/25/05